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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,917	03/15/2004	Sean Ward	G1841-908385US01	6842
181 7590 05/11/2007 MILES & STOCKBRIDGE PC 1751 PINNACLE DRIVE SUITE 500 MCLEAN, VA 22102-3833			EXAMINER CHEMPAKASERIL, ANN J	
			ART UNIT 2169	PAPER NUMBER
			MAIL DATE 05/11/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/799,917	Applicant(s) WARD ET AL.	
	Examiner Ann J. Chempakaseril	Art Unit 2169	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-9 are pending.

#### *Drawings*

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because Fig. 2 and Fig. 3 are part of the same drawings. Additionally, applicant refers to content of Fig. 3 as part of Fig. 2. It is advised the applicant combine the two figures to be consistent with the specification and correlate the information of Fig. 2 and Fig. 3 in a better way. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 80 and 150. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet"

or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-9** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication 2003/0028796 issued to Roberts et al. (hereinafter "Roberts").

As per **Claims 1 and 5**, Roberts discloses a system for media recognition (**A database system to recognize media information [0022]**) comprising:

A media storage device (**Media storage device such as the audio CD [0022]**) comprising:

a first storage component for segment lengths and fingerprint identifiers (**The unique identifiers optionally are cached in high-speed RAM or specially indexed database tables. fingerprints from at least one portion of the unknown recording; [0022]**);

and a second storage component for fingerprint and fingerprint identifiers  
**(Unidentified Recording such as CD, DVD, Digital File Etc. include a unique identifier and fingerprint(s). CD, DVD, Digital File etc. are types of storage. [0041]);**

a first means configured to extract fingerprint and segment length information from the media storage device to derive a media description packet comprising one or more fingerprints and segment length information **(Recording 100 is also processed by fingerprint extractor 230 using at least one and preferably several different algorithmically derived fingerprint extraction systems to obtain fingerprint(s) [0041]; fingerprints are taken from 30 second segments of the recording [0042]);**

a second means configured to accept the media description packet, and a third means configured to resolve the fingerprint and segment length packet, and return associated metadata, if any **(The fingerprints then undergo fingerprint validation 270 using an algorithmic comparator that attempts to cross-correlate fingerprints for a recording with fingerprints uploaded and extracted by different end users. If it is found that the fingerprints are substantially similar, they would be validated. fingerprints that are determined to be valid and related undergo stitching 280. For example, if fingerprints are taken from 30 second segments of the recording, the fingerprints are assembled into a continuous fingerprint stream. This could simplify recognition of segments of the recording. The resulting fingerprints are stored in fingerprint database 290 associated with existing database 90. This database contains both basic metadata (artist, album, and track names) as well as extended data (genre, label, etc. [0042-0044]).**

As per Claims 2 and 6, Roberts discloses a fourth means configured to request additional segment fingerprints if a matching segment record is not found for the media description packet **(If fingerprints are taken from 30 second segments of the recording, the fingerprints are assembled into a continuous fingerprint stream. additional segments of the 30 second piece can be used to find a matching record. This could simplify recognition of segments of the recording. [0043])**

As per Claims 3, 8, and 9, Roberts discloses a fifth means configured to request user input of associated metadata if a matching segment record is not found for the media description packet **(If no reference recording is found 750 matching unidentified recording 100, the extracted information 540-590 and results are stored in unrecognized holding bin 760 for periodic resubmission to recognition server 120 (FIGS. 2 & 4B). In this embodiment, if a reference recording is located 770 with a low aggregate confidence level, post recognition processing 780 is performed by applying heuristics 790, or a manual review 810, e.g., by presenting one or more possible matches to the user and receiving the user's selection in response. [0088]**

As per Claim 4, Roberts discloses a third storage means for fingerprint identifier to metadata mappings, and a sixth means configured to translate segment level fingerprint identifiers to metadata using said metadata mapping **(fingerprints are taken from 30 second segments of the recording, the fingerprints are assembled into a continuous fingerprint stream. This could simplify recognition of segments of the recording. The resulting fingerprints are stored in fingerprint database 290**

**associated with existing database 90 The CDDB database has in part been generated through user submissions to create a metadata database with over 12 million tracks and 900,000 albums as of mid-2002. This database contains both basic metadata (artist, album, and track names) as well as extended data (genre, label, etc.). [0043-0044])**

As per **Claim 7**, Roberts discloses adding a new media description record if all segments within the record are properly resolved (If a reference recording is located, validation is performed by comparing the duration of unidentified recording 100 with the duration of the reference recording. [0087] Once a successful identification is returned the file will be retagged 350 with the unique ID allowing for population of the file with the correct ID throughout the system [0084])

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See **MPEP 707.05**.

US Patent 6061680 issued to Scherf et al.

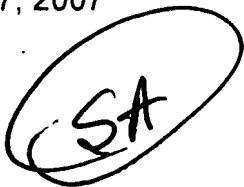
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**Contact Information**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann J. Chempakaseril whose telephone number is 571-272-9767. The examiner can normally be reached on Monday through Thursday, 9-4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pierre Vital can be reached on 571-272-4215. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Ann J Chempakaseril  
Examiner  
Art Unit 2169

May 7, 2007



  
PIERRE VITAL  
SUPERVISORY PATENT EXAMINER